

**Remarks**

In the Office action, claims 1-13 were rejected as being allegedly unpatentable over U.S. Patent No. 5,579,124 ("Aijala") in view of U.S. Published Application 2003/0097586 A1 ("Mok").

By way of the foregoing amendment, the paragraph beginning on page 4, line 25, and ending on page 5, line 25 has been amended to correct minor typographical errors. Similarly, the paragraph on page 6, lines 7-16 has been amended to correct minor typographical errors. Claims 1-13 remain in this application and claims 1, 6-8, and 13 have been amended. Of the claims at issue, claims 1, 6, and 7 are independent. In view of the foregoing amendments and the following remarks, reconsideration of the application is respectfully requested.

**The Rejections Under 35 U.S.C. § 103**

Claims 1, 6, and 7 were rejected as being unpatentable over Aijala in view of Mok. Applicant respectfully submits that claims 1, 6, and 7, and claims dependent therefrom, are allowable over this patent, and patent application, for the reasons set forth below.

**Claim 1**

Independent claim 1 recites, *inter alia*, a portable transponder and a fixed receiver for detecting an audio signal and for determining an identity of the portable transponder when the receiver is present in a monitored region, and for associating the identity of the transponder with the identity of the audio signal detected in the monitored region. As discussed below, applicant respectfully submits that neither Aijala nor Mok discloses a portable transponder and a fixed receiver for associating the identity of the transponder with an identity of an audio signal detected in the monitored region. As a result, any combination of Aijala and Mok necessarily fails to disclose a portable transponder and a fixed receiver for detecting an audio signal and for determining an identity of the portable transponder when the receiver is present in a monitored region, and for associating the identity of the transponder with an identity of an audio signal detected.

To establish a *prima facie* case of obviousness, the prior art must teach or suggest each of the claim elements and must additionally provide a suggestion of, or an incentive for, the claimed combination of elements. See *In re Oetiker*, 24 USPQ. 2d 1443, 1446 (Fed. Cir. 1992); *Ex parte Clapp*, 227 USPQ. 972, 973 (Bd. Pat. App. 1985); *In re Royka*, 490 F.2d 981 (CCPA 1974) and M.P.E.P. § 2143.

While Aijala describes a method and apparatus for encoding and decoding information in broadcast signals in which a typical broadcast receiver acoustically reproduces the audio using a speaker and that reproduced audio is received by a microphone of a personal monitor, Aijala does not disclose a portable transponder and a fixed receiver for detecting an audio signal and for determining an identity of the portable transponder when the transponder is present in a monitored region. Page 2 of the Office action appears to contend that the separate monitoring device taught by Aijala corresponds to the fixed receiver recited in claim 1. On the contrary, the separate monitoring device of Aijala fails to communicate in *any* way with a portable transponder, much less determine an identity of the portable transponder when the transponder is present in a monitored region. Instead the separate monitoring unit of Aijala performs receiving and correlating of audio signals. See 3:34-39 and 5:51-60. The separate monitoring unit of Aijala may also extract information contained in the broadcast and send such information to a centralized data processing facility for matching to provide a record of who was exposed to what, and when. However, because Aijala does not teach or suggest that the separate monitoring unit communicates any information back to the broadcast receiver, Aijala necessarily fails to teach or suggest a portable transponder and a fixed receiver for determining an identity of the portable transponder when the transponder is present in a monitored region.

Similarly, Aijala also employs the broadcast receiver to emit audio signals that are received by the personal monitor. See 7:45-55, and Figure 2A, elements 205-220. While the broadcast receiver of Aijala is, arguably, a fixed device, the broadcast receiver is neither a fixed receiver for detecting an audio signal nor does the fixed receiver determine an identity of a portable transponder. Conversely, Aijala teaches that the personal monitor is worn or carried on an audience member and receives and correlates the audio signal (from the broadcast receiver) to recover an identification signal encoded by an encoder prior to broadcast via RF, satellite or cable. See 3:19-34 and 7:10-17. While the personal monitor of

Aijala correlates, that is, recovers the identification signal of the audio from the broadcast receiver, neither the fixed receiver nor the personal monitor determines an identity of a portable transponder, as recited in claim 1. In fact, much like the separate monitoring unit discussed above, the portable transponder of Aijala fails to communicate *any* information back to the broadcast receiver, much less information related to the identity of the transponder. As such, Aijala necessarily fails any teaching of a portable transponder and a fixed receiver for detecting an audio signal and for determining an identity of the portable transponder when the transponder is present in a monitored region.

Additionally, page 2 of the Office action appears to contend that Aijala discloses a fixed receiver for associating the identity of the transponder with the identity of the audio signal detected in the monitored region. As discussed above, if the Office action contends that the separate monitoring unit of Aijala corresponds to the fixed receiver as recited in claim 1, then Aijala describes such separate monitoring unit as merely receiving and correlating in a manner similar to the personal units. *See 3:34-36*. However, while the personal units of Aijala communicate with a centralized facility, Aijala fails to teach or suggest such units communicate to the transponder, much less associate the identity of the transponder with the identity of the audio signal detected in the monitored region. *See 3:36-40 and 5:50-60*. Similarly, if the Office action contends that the broadcast receiver of Aijala (*item 210 of Figure 2A*) corresponds to the fixed receiver as recited in claim 1, then Aijala describes such broadcast receiver as a source of audio to be received by the personal receiver (*item 200 of Figure 2A*). As such, the broadcast receiver of Aijala receives no information and/or signals back from the personal receiver and, consequently, may not constitute a fixed receiver for associating the identity of the transponder with the identity of the audio signal in the monitored region, as recited by independent claim 1.

While Mok describes a security system including transponders, transponder carrier identification, and transponder tracking, Mok fails to disclose a portable transponder and a fixed receiver for detecting an audio signal and for associating the identity of the transponder with an identity of an audio signal in the monitored region. Instead, Mok merely describes a plurality of transponder readers and transponders, in which each transponder may store a unique identifier in a memory. *See paragraphs [0049] through [0054], Figure 1 and Figure 3*. Each transponder of Mok is typically allocated to an individual in accordance with

predefined authorization parameters held by a security processor and allows a log of transponder location to be generated. *See paragraphs [0064] and [0068]*. However, Mok fails to teach or suggest *any* audio signal, much less a fixed receiver for detecting an audio signal and for associating the identity of the transponder with an identity of an audio signal in the monitored region. While the Office action illustrates paragraphs [0066] and [0086] to allegedly support a contention that Mok teaches or suggests the recited limitations, such paragraphs merely describe a transponder adapted to detect movement in a detection zone and receiving and de-coding detected unique identifiers, respectively. As a result, Mok fails to teach or suggest a fixed receiver for associating the identity of the transponder with an identity of an audio signal in the monitored region, as recited by independent claim 1.

As neither Aijala nor Mok disclose a portable transponder and a fixed receiver for associating the identity of the transponder with the identity of the audio signal in the monitored region, as recited by amended claim 1, it follows that neither Aijala nor Mok, alone or in combination, can render claim 1 as obvious. Dependent claims 2-5 depend from independent claim 1 and are allowable for at least the reasons discussed above in association with claim 1. Therefore, the applicant respectfully requests allowance of claims 1-5.

#### **Claim 6**

Independent claim 6 recites, *inter alia*, a method for the remote monitoring of audio signals comprising monitoring for the presence of an audio signal, monitoring for the presence of a transponder, and identifying the transponder and the identity of the audio signal. Neither Aijala nor Mok, alone or in combination, disclose a method for the remote monitoring of audio signals comprising monitoring for the presence of an audio signal, monitoring for the presence of a transponder, and identifying the transponder and the identity of the audio signal. As a result, any combination of Aijala and Mok fails to disclose the subject matter recited by claim 6.

The Office action appears to contend that Aijala teaches monitoring for the presence of a transponder, and identifying the transponder and the identity of the audio signal, but the column and line numbers that allegedly teach this limitation appear to be missing from page 4 of the Office action. The applicant welcomes any further information that may illustrate

Aijala teaches or suggests the aforementioned limitations. However, after review of Aijala, the applicant maintains that Aijala fails to teach or suggest monitoring for the presence of a transponder, and identifying the transponder and the identity of the audio signal. As discussed above in view of claim 1, Aijala merely teaches a personal unit that receives an audio signal from a broadcast receiver. Aijala also teaches a separate monitoring unit that performs receiving and correlating. *See 3:34-39 and 5:51-60*. While the personal unit and separate monitoring unit of Aijala correlate the audio signal (from the broadcast receiver) to recover an identification signal encoded by an encoder prior to broadcast via RF, satellite or cable, Aijala fails to teach or suggest monitoring for the presence of a transponder, and identifying the transponder and the identity of the audio signal. *See 3:19-34 and 7:10-17*.

The Office action also turns to Mok at paragraphs [0066] and [0086] to illustrate an alleged teaching of monitoring for the presence of a transponder, and identifying the transponder and the identity of the audio signal, as recited by claim 6. However, as discussed above in view of claim 1, the aforementioned paragraphs of Mok teach a transponder adapted to detect movement in a detection zone and receiving and de-coding detected unique identifiers, respectively. Moreover, because Mok fails to teach or suggest *any* audio signal, and because both Aijala and Mok fail to teach or suggest monitoring for the presence of a transponder, and identifying the transponder and the identity of the audio signal, no combination of Aijala and Mok can render independent claim 6 obvious. As a result, the applicant respectfully requests allowance of claim 6.

#### **Claim 7**

Independent claim 7 recites, *inter alia*, an apparatus for the remote monitoring of audio signals comprising a portable transponder and means for generating a record associating the identity of the transponder with the identity of the audio signal detected in the monitored region. Neither Aijala nor Mok, alone or in combination, disclose an apparatus for the remote monitoring of audio signals comprising a portable transponder and means for generating a record associating the identity of the transponder with the identity of the audio signal detected in the monitored region. As a result, any combination of Aijala and Mok fails to disclose the subject matter recited by claim 7, and claims dependent therefrom.

While the Office action, on page 5, alleges that Aijala teaches a means for detecting an audio signal present in a monitored region and determining an identity of the audio signal detected, the examiner further acknowledges that Aijala fails to teach, *inter alia*, an apparatus for the remote monitoring of audio signals comprising a portable transponder and means for associating the identity of the transponder with the identity of the audio signal detected in the monitored region. In view of the admitted deficiency of Aijala, the examiner turns to Mok at paragraphs [0066] and [0086] to allegedly cure this deficiency. However, as discussed above in view of independent claims 1 and 6, the aforementioned paragraphs of Mok merely teach a transponder adapted to detect movement in a detection zone and receiving and de-coding detected unique identifiers, respectively. Moreover, because Mok fails to teach or suggest *any* audio signal, and because both Aijala and Mok fail to teach or suggest an apparatus for the remote monitoring of audio signals comprising a portable transponder and means for generating a record associating the identity of the transponder with the identity of the audio signal detected in the monitored region, no combination of Aijala and Mok can render amended independent claim 7 obvious. As such, the applicant respectfully requests allowance of claim 7, and claims dependent therefrom.

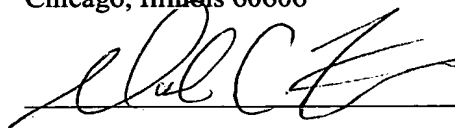
**U.S. Serial No. 10/659,514**  
**Response to the Office action of June 15, 2005**

**Conclusion**

Reconsideration of the application and allowance thereof are respectfully requested. If there is any matter that the examiner would like to discuss, the examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,  
Hanley, Flight & Zimmerman, LLC  
20 North Wacker Drive  
Suite 4220  
Chicago, Illinois 60606

Dated: December 15, 2005

A handwritten signature in black ink, appearing to read 'M. C. Zimmerman', is written over a horizontal line.

Mark C. Zimmerman  
Reg. No. 44,006  
Attorney for Applicant  
312.580.1020